

TWENTY-FIRST DAY.

SENATE CHAMBER,)
AUSTIN, February 4, 1875. }

Senate met pursuant to adjournment; roll called; quorum present. Prayer by the chaplain.

On motion of Senator Westfall, the reading of the journal of yesterday was dispensed with.

The President of the Senate took occasion to say that, in giving his decision on the 2d instant, on the appeal from the ruling of the chair, in reciting the vote from the journals of last session, sustaining his then ruling, stated that the words "Senator Dillard not voting" were used.

The chair takes great pleasure in saying, that, although the statement was *literally true*, yet it is due to the Senator from Cherokee, (Dillard), to say, that he was at that time absent from the Senate on leave.

Though having differed, each under a sense of official duty, the President testifies with pleasure that, not only on this, but all other great public questions, that Senator has never shirked any responsibility, and placed himself on records when in his seat in this Senate.

The journals will be corrected accordingly.

Senator Westfall presented a petition "For payment of debt on school house in Burnet." Read and referred to Judiciary Committee.

Senator Westfall presented the memorial of citizens of Burnet county, "Asking an appropriation sufficient to enable the Adjutant General to increase the frontier force," Read and referred to Committee on Finance.

Senator Wood, for Committee, submitted the following reports :

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Judiciary ask leave to report back to your honorable body, Senate bill No. 597, "An act to amend section one of an act creating notaries," and recommend that it do not pass. Wood, for Committee.

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Judiciary ask leave to report back to the Senate, Senate bill No. 369, "An act for the relief of

the heirs of Sylvester Bowen," and recommend that it do not pass.
Wood, for Committee.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary, ask leave to report back to your honorable body, Senate bill No. 561, "An act to authorize Travis county to issue bonds to build a court house and jail," and recommend that it do not pass, for the following reasons:

1st. Because it is in violation of section 40, of the general provisions of the constitution, which reads as follows: "Section 40. The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say, for locating or changing county seats, regulating county or town affairs, regulating the practice in courts of justices, regulating the duties and jurisdiction of justices of the peace and constables, providing for changes of venue in civil and criminal cases, incorporating cities or towns, or changing or amending the charter of any city or village, providing for the management of common schools, regulating the rate of interest on money, remitting fines, forfeitures or penalties, changing the laws of descent.

In all other cases, where a general law can be made applicable, no special law shall be enacted; or, in any case, where a general law can be made applicable, no special law shall be enacted. The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which, in its judgment, may be provided by general laws."

2d. Because they believe that the general law is sufficient.
Wood, for Committee.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary ask leave to report back to the Senate, Senate bill No. 594, "An act to amend the fourth section of 'an act to establish a Criminal Court for Dallas, McKinney and Sherman,'" and recommend its passage.
Wood, for Committee.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary ask leave to report back to the Senate, Senate bill No. 592, "An act supplementary to and amendatory of 'an act prescribing the times for

holding the district courts in the several judicial districts in the State," and recommend its passage.

WOOD, for Committee.

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Judiciary ask leave to report back to your honorable body, Senate bill No. 590, "An act to require the Attorney General to intervene for the State in the case of G. J. and J. P. Martines del Rio vs. H. Henson, in the United States District Courts," and recommend that it do not pass.

WOOD, for Committee.

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Judiciary ask leave to report back to your honorable body, Senate bill No. 586, "An act to amend the first section of an act entitled 'an act to punish unlawful interference with private property or private rights,'" and recommend its passage.

WOOD, for Committee.

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Judiciary ask leave to report back to the Senate, Senate bill No. 448, "An act to provide for the instruction of the pupils of the institute for the deaf and dumb of this State in the art of printing," with the following as a substitute for section 3: "Section 3. The Public Printing Board shall be required to have any public printing executed at said institution, at any time that the same may be practicable and expedient, and when the same can be done by the pupils of said institution," and recommend its passage as amended.

WOOD for Committee.

Senator Westfall introduced a bill entitled "An act to authorize Gustave Schleicher and Gustave Hoffman to erect and to keep a boom across the Colorado river, at or near the city of Austin, in the county of Travis." Read first time and referred to Judiciary Committee.

Senator Shepard introduced a bill, entitled, "An act to enable all incorporated cities in this State to levy a special tax for the preservation of the public health." Read first time and ordered to lie on the table.

Senator Wood introduced a bill entitled "An act to regulate the hours of business in the several departments

of the State government." Read first time and referred to Committee on State Affairs.

Senator Ball introduced a bill entitled "An act to amend section seven of an act entitled 'an act to define the land districts of Palo Pinto, Jack, Clay, Young and Eastland counties.'" Read first time and referred to Committee on Public Lands.

Senator Ball introduced a bill entitled "An act to validate the official acts of J. J. Metcalf, surveyor of Palo Pinto land district." Read first time and referred to Committee on Public Lands.

Senator Ellis, for Committee on Judiciary, submitted the following report :

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Judiciary, to whom was referred Senate bill No. 599, "An act to regulate the fees of district attorneys in felony cases," have examined the same, and instruct me to report the same back, with the accompanying substitute, and recommend the passage of said substitute.

ELLIS, for Committee.

The title of the substitute referred to is, "An act to regulate the fees of the district attorneys, in certain cases."

Senator Westfall gave notice that he would move a reconsideration of the vote, by which the Senate, on yesterday, concurred in House amendments to Senate bill No. 524, "An act to amend section eight of an act entitled 'an act to incorporate the Gulf, Colorado and Sante Fe Railroad Company, and to grant land in aid of construction of the same,'" passed May 2, 1873.

On motion of Senator Shepard, the rules were suspended, and the bill introduced by him this morning, entitled, "An act to enable all incorporated cities in this State to levy a special tax for the preservation of the public health," was taken up, read second time and ordered engrossed.

On motion of Senator Dwyer, the rules were further suspended, bill read third time, and passed.

On motion of Senator Dillard, the rules were suspended, and Senate joint resolution No. 447, "Condemning the interference with and destruction of the State Government of Louisiana, by the present Federal Administration," was taken up, pending House amendments thereto.

On motion of Senator Dillard, the joint resolution was made the special order for Monday next, at 11 o'clock A. M., and to continue as said special order from day to day until disposed of.

On motion of Senator Baker, the rules were suspended, and House bill No. 580, "An act to authorize the Governor to employ a suitable detective to ferret out frauds in land claims against the State, and to make an appropriation to carry the same into effect," was taken up, read first time, and referred to Committee on State Affairs.

Senator Westfall, for Committee on Enrolled Bills, submitted the following report :

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Enrolled Bills have carefully compared, and find correctly enrolled Senate bill No. 544, "An act making an appropriation for the purpose of paying an oculist for treating inmates of the institute for the blind," and presented the same to the Governor, this 3d day of February, at 1 o'clock P. M., for his approval.

WM. H. WESTFALL, for Committee.

The following House bills were taken up, read first time and referred to appropriate committees as follows :

House bill No. 581, "An act to amend the twelfth section of an act entitled 'an act to regulate ferries,' " approved January 23, 1850.

House bill No. 604, "An act amendatory of and supplemental to an act amendatory of and supplemental to an act entitled 'an act to regulate the assessment and collection of taxes,' " approved May 31st, 1873; approved April 30th, 1874.

House bill No. 626, "An act to provide for the collection and disbursement of moneys belonging to the Lunatic Asylum."

House bill No. 627, "An act to cause the county courts of the several counties in this State to furnish the county surveyor with necessary office books."

House bill No. 622, "An act to repeal an act entitled 'an act defining a further cause of continuance in civil cases,' " approved April 29th, A. D., 1873.

House bill No. 593, "An act supplemental to an act entitled 'an act concerning the five per cent. United States

indemnity bonds belonging to the State of Texas, and used by the late military board of the State."

House bill No. 621, "An act to repeal an act entitled 'an act concerning the levy of taxes for Bexar county.'"

House bill, No. 577, "An act to amend article 407 of the Code of Criminal Procedure." adopted August 20th, 1856.

House bill No. 560, "An act to amend an act entitled 'an act to adopt and establish a Penal Code.'" approved August 26th, 1856; approved October 18th, 1871.

Substitute for House bill No. 546, "An act to authorize the county court of Karnes county to build bridges across the San Antonio and Cibolo rivers, and issue bonds in aid thereof."

Senator Ireland, Chairman Judiciary Committee, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary, to whom was referred Senate bill No. 455, "An act supplemental to 'an act to establish and maintain a system of public free schools in the State of Texas.'" passed April 30, 1873, instruct me to report back the accompanying substitute for the bill, and recommend its passage. IRELAND, Chairman.

The title of the substitute referred to, is: "An act supplemental to 'an act to establish and maintain a system of public free schools in the State of Texas.'" passed April 30, 1873.

On motion of Senator Moore, the rules were suspended, and Senate bill No. 453, "An act to amend section eight of 'an act to authorize the county court of Lamar county to build a courthouse and jail, etc.'" was taken up, read second time and ordered engrossed.

On motion of Senator Culberson, the rules were suspended, bill read third time and passed.

A message was received from the House announcing the passage of House bill No. 745, "An act making provisions for the purchase and safe keeping of a library of moral and useful books, for the use and improvement of the convicts confined in the State penitentiary." Also, the passage of House resolution, "For appointment of a joint committee to consider public debt of Texas," and that the House had appointed Representatives Munson, Delany and Epperson as said committee.

House concurrent resolution, "Recommending to the Department of Education and to the teachers of the State, a work on Botany, by Mrs. M. J. Young, of Texas," was taken up, and on motion of Senator Davenport was referred to Committee on Education.

On motion of Senator Russell, the rules were suspended and House bill No. 623, "An act to attach the county of Crockett to the county of Kinney, for judicial purposes," was taken up, read second time and passed to third reading.

On motion of Senator Russell, the rules were further suspended, bill read third time and passed.

The hour for the consideration of the special order having arrived, to-wit: The consideration of Senate bill No. 518, "An act to provide for the sale of lands heretofore granted to the various counties for educational purposes," it was taken up.

On motion of Senator Ball, the special order was postponed, and the bill made special order for Saturday next at 11 o'clock A. M., and to continue as said special order from day to day until disposed of.

House resolution, "For appointment of a joint committee to fix amount of mileage to which members are entitled," was taken up.

On motion of Senator Culberson, the resolution was indefinitely postponed.

Senator Shepard introduced a bill entitled "An act to prevent the running of certain stock at large, and to provide penalties therefor." Read first time and referred to Committee on Stockraising.

Senator Wood introduced a bill entitled "An act to fix the compensation of the members and officers of the Legislature." Read first time and referred to Finance Committee.

Senate bill No. 72, "An act to amend an act entitled 'an act to authorize the cancellation of patents in certain cases,'" approved February 3, 1854, was taken up, pending amendments thereto by the House.

On motion of Senator Wood, the Senate refused to concur in House amendments.

On motion of Senator Wood, a committee of conference was appointed on the disagreement between the the two Houses, said committee consisting of Senators Wood, Hobby and Ball.

On motion of Senator Bradshaw, the rules were suspended and Senate bill No. 592, "An act supplementary to and amendatory of 'an act prescribing the times of holding the district courts in the several judicial districts in the State,'" approved August 10, 1870; approved March 1, 1871, was taken up, read second time and ordered engrossed.

On motion of Senator Bradshaw, the rules were suspended, bill read third time and passed.

On motion of Senator Bradshaw, the rules were suspended, and Senate bill No. 594, "An act to amend the fourth section of an act to establish a Criminal Court for Dallas, McKinney and Sherman," was taken up, read second time and ordered engrossed.

On motion of Senator Bradshaw, the rules were further suspended, bill read third time and passed.

Senate bill No. 499, "An act to authorize and enable peace officers to call to their aid the *posse* in the execution of criminal process and in the preservation of the peace," was taken up and read second time, pending a report by the committee reporting on said bill, that it do not pass.

The report of the committee was adopted, and the bill lost.

Senate bill No. 31, "An act to amend the fourth section of an act better defining the marital rights of parties," passed March 13, 1848, was taken up and read second time, pending amendments offered by the committee reporting on said bill.

On motion of Senator Wood, the bill was postponed until Tuesday next at 11 o'clock A. M.; made special order for that day and hour, one hundred copies ordered printed, and to continue as said special order from day to day until disposed of.

Senator Shepard, for Committee on Engrossed Bills, submitted the follow report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 459, "An act to incorporate the Guadalupe Cotton Manufactory." Also, Senate bill No. 508, "An act for the relief of such counties and incorporated cities or towns as have voted donations in aid of the construction of railroads and other works of in-

ternal improvement, under the provisions of 'an act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvement,' " approved April 12th, A. D. 1871, which said act was repealed on the 22d of April, A. D. 1874. Also, Senate bill No. 501, "An act amendatory of and supplemental to 'an act granting pensions to the surviving veterans of the revolution which separated Texas from Mexico, including the Santa Fe and Mier prisoners; the survivors of the company of Captain Dawson, who was massacred near San Antonio, in the year 1842; the survivors of those who were captured at the city of San Antonio in the fall of the year 1842, and taken to the castle of Perote and confined therein; and the survivors of Deaf Smith's Spy Company, and to provide for the liquidation and settlement of all arrearages due said veterans, under an act of 13th of August, 1870, previous to 1st of July, 1874,' " approved April 21st, 1874. Also Senate bill No. 603, "An act to enable all incorporated cities in this State to levy a special tax for the preservation of the public health," and find all of the same correctly engrossed.

SETH SHEPARD, for Committee.

Senator Dwyer, for Committee on Enrolled Bills, submitted the following report :

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Enrolled Bills ask leave to report that they have carefully examined Senate bill No. 571, "An act amendatory of 'an act to incorporate the Galveston Agricultural, Horticultural and Industrial Association,' " find the same correctly enrolled, and have this 4th day of February, 1875, at 11:30 o'clock A. M., presented the same to the Governor for his approval.

JOS. E. DWYER, for Committee.

On motion of Senator Culberson, the rules were suspended, and Senate bill No. 566, "An act to encourage the construction of canals and ditches," was taken up and read second time.

Senator Wood offered the following amendment :

Provided, Such company or corporation before they shall be entitled to receive any benefit from the State under this act, shall satisfy the Governor by such proof as he may require, that they have constructed such canal or

ditch in good faith, in order to carry out and accomplish the objects of this act, and that said company or corporation have the ability, and do intend to keep said canal or ditch in full repair and efficiency for the purposes of this act, for the period of ten years after it is fully completed; and, if said company or corporation do not, by such proofs as the Governor may require to satisfy him, they shall not receive any benefit under this act. Adopted.

Senator Dillard offered the following amendment:

Strike out the words "for navigation" whenever it occurs in the bill. Lost.

Senator Bradshaw moved that the further consideration of the bill be postponed until Thursday next. Lost.

Senator Baker moved to strike out the eight section of the bill. Adopted.

Senator Bradley offered the following amendment: Add to end of first section, the following words:

"And provided, further, by the depth in feet, as specified in this section, it is expressly intended that there shall be such depth in water."

On motion of Senator Ellis, the amendment was laid on the table.

Senator Bradshaw offered the following amendment: Add to the end of section nine, the following words:

"Provided, That the State shall, in no case, be responsible for the deficiency of the lands herein granted." Adopted.

Senator Moore offered the following amendment:

Amend by striking out all after the word "provided," in the eighth line of the second section, and insert the words, "that no canal of a less length than twenty-five miles shall be entitled to the benefits of this act, unless such canal shall be constructed for the purpose of connecting other navigable canals." Lost.

Senator Swift offered the following amendment:

In section two, strike out the word "twenty" and insert "sixteen," and strike out the word "sixteen" and insert "twelve," and strike out the word "ten" and insert the word "eight."

Senator Culberson moved to lay the amendment, offered by Senator Swift, on the table. Lost.

The amendment offered by Senator Swift was then adopted.

The bill, as amended, was then ordered engrossed.

On motion of Senator Flanagan, the rules were suspended, bill read third time and passed by the following vote :

YEAS—Senators Ball, Baker, Camp, Culberson, Dwyer, Ellis, Erath, Flanagan, Friend, Hobby, Morris, Randle, Russell, Shepard, Stirman, Swift and Wood—17.

NAYS—Senators Bradshaw, Bradley, Burton, Craven, Dillard, Davenport, Moore, and Westfall—8.

Senator Dillard offered the following resolution :

Resolved, That the Committee on Public Printing be and are hereby instructed to inquire into and report the reasons why the Public Printer has not furnished the Senate with the number of printed copies of the Governor's message heretofore ordered. Adopted.

On motion of Senator Swift, the Senate adjourned until 10 o'clock A. M. to-morrow.

TWENTY-SECOND DAY.

SENATE CHAMBER,
AUSTIN, February 5, 1875.

Senate met pursuant to adjournment ; roll called : quorum present. Prayer by the Rev. W. H. Crutcher, of Round Rock. Journals of yesterday read and adopted.

A message was received from the Governor.

Senator Westfall, Chairman Committee on Education, submitted the following reports :

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Education, to whom was referred the petition of the citizens of Kilgore and vicinity, in Gregg county, "Asking the incorporation of the 'Alexander Institute,' located at said place, and the prohibition of the sale of liquors within two miles of said institute," have considered the same and instruct me to report it back to your honorable body, with the accompanying bill, and recommend its passage.

W. H. WESTFALL, Chairman,

The title of the bill referred to is "An act to incorporate the Alexander Institute, located at Kilgore, in Gregg